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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,128	10/03/2003	Wayne R. Lumpkin	0007.19	2259
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SWANSON & BRATSCHEUN, L.L.C. 8210 SOUTHPARK TERRACE LITTLETON, CO 80120				
EXAMINER				
JOHNSON, MATTHEW A				
ART UNIT		PAPER NUMBER		
3656				
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02/04/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/679,128

Applicant(s)

LUMPKIN, WAYNE R.

Examiner

MATTHEW A. JOHNSON

Art Unit

3656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Prosecution Application

1. The request filed on 12/5/2008 for Continued Examination (RCE) is accepted and a RCE has been established. An action on the RCE follows.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2-4, 10, 6-8, 14-16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen (USP-6,186,027) in view of Hand et al. (USP-1,870,112).

Re clm 1: Nielsen discloses a clamp structure comprising a(n):

- First arm (36,42A) having a distal end (42A) defining a first threaded through bore (42A, C3 L25-28)
- Second arm (36,42B) having a distal end (42B) defining a second threaded through bore (Figure 3, C3 L25-28), wherein the first threaded bore and the second threaded bore are essentially coaxial and essentially the same inner diameter (Fig. 3)
- Screw (40) comprising a head and a shank (Fig. 3), the head being at one end of the shank and the shank having a threaded portion at a second end opposite the first end, the screw being configured for selective insertion in

one of the first and second threaded through bores (the screw is capable of being screwed into both threaded bores) so that with a threaded engagement between the threaded portion of the shank and either the first threaded through bore (42A) of the first arm (36, 42A) or the second threaded bore (42B) of the second arm (36, 42B) and the head abutting the other of the first and second arms opposite the threaded engagement, the clearance portion resides within the other of the first and second threaded through bores (Fig. 3)

While Nielsen does indeed disclose a first and second threaded through bore (bores in 42A, and 42B) and appears to show a clearance portion (non-threaded portion of the shaft), Nielsen does not explicitly disclose a clearance portion as defined by Applicant (a portion that is capable of clearing a threaded bore).

Hand teaches a clamping system (Fig. 2) comprising a screw having a head (9), a threaded portion (6) and a clearance portion (7) this is sized to be freely received in a bore without contacting the wall (C2 L70-75), in order to achieve the predictable result of allowing the clearance portion to be freely received in the bore without contacting the walls and to force the arms of the clamp towards each other thus facilitating the clamping action (C2 L69-87).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have substituted the screw of Nielsen for the screw disclosed by Hand, since the simple substitution of one known element for another to obtain predictable result requires only routine skill in the art.

Re clm 4: Nielsen discloses a clamp structure wherein each of the first and second arms have a proximal end (34) attached to a bicycle component (8).

Re clm 6: Nielsen discloses a method of attaching a clamp to a frame comprising:

- Providing a frame (38)
- Providing a symmetric clamp structure (36, 42A, 42B) comprising a first arm (36, 42A) having a distal end (42A) defining a first threaded bore (C3 L25-28), a second arm (36, 42B) having a distal end (42B) defining a second threaded bore (C3 L25) wherein the first threaded bore (42A) and the second threaded bore (42B) are essentially coaxial (C3 L22) and have essentially the same size and pitch threading (Fig. 3)
- Providing a screw (40) comprising a head and a shank, the head being at one end of the shank and a threaded portion being at a second end of the shank opposite the first end (Fig. 3), the threaded portion being sized to threadably engage both the first and second threaded bores
- Engaging the screw with the clamp by selectively inserting the screw into one of the first and second threaded bores (screw 40 is capable of being screwed into both threaded bores) and screwing the threaded portion into a threaded engagement with the second or first threaded bore, such that the head abuts the arm opposite the threaded engagement and the

clearance portion clears the threads of the threaded bore opposite the threaded engagement

- Placing the clamp over the frame so that the frame is received between the first and second arms of the clamp (Fig. 3)
- Tightening the screw thereby driving the distal ends of the first and second arms toward each other, thereby attaching the clamp to the frame (C3 L23-25)

While Nielsen does indeed disclose a first and second threaded through bore (bores in 42A, and 42B) and appears to show a clearance portion (non-threaded portion of the shaft), Nielsen does not explicitly disclose a clearance portion as defined by Applicant (a portion that is capable of clearing a threaded bore).

Hand teaches a clamping system (Fig. 2) comprising a screw having a head (9), a threaded portion (6) and a clearance portion (7) this is sized to be freely received in a bore without contacting the wall (C2 L70-75), in order to achieve the predictable result of allowing the clearance portion to be freely received in the bore without contacting the walls and to force the arms of the clamp towards each other thus facilitating the clamping action (C2 L69-87).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have substituted the screw of Nielsen for the screw disclosed by Hand, since the simple substitution of one known element for another to obtain predictable result requires only routine skill in the art.

Re clms 7 and 8: Nielsen discloses the frame is a tubular bicycle handlebar/frame (38, handlebar is part of the frame).

Re clms 14 and 15: Nielson discloses the clearance portion being non-threaded (Fig. 3).

Re clms 2 and 3: Nielson does not explicitly disclose a clearance portion having an outer diameter sized to clear the first (42A) and second (42B) threaded bores, and the clearance portion having a length at least equal to the axial length of each threaded bore.

Hand teaches a clamping system (Fig. 2) comprising a screw having a head (9), a threaded portion (6) and a clearance portion (7), the clearance portion has an outer diameter sized to clear a through bore (5) and having a length at least equal to (as well as exceeds, Fig. 2) the axial length of a threaded through bore (4) in order to achieve the predictable result of allowing the clearance portion to be freely received in the bore without contacting the walls and to force the arms of the clamp towards each other thus facilitating the clamping action (C2 L69-87).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have substituted the screw of Nielsen for the screw disclosed by Hand, since the simple substitution of one known element for another to obtain predictable result requires only routine skill in the art.

Re clm 10: Nielsen discloses a method of manufacturing a symmetrical clamp structure comprising:

- Providing a clamp body (36) having a first arm (36, 42A) having a distal end (42A) and a second arm (36, 42B) having a distal end with the distal end of the first arm and the distal end of the second arm being substantially adjacent to each other and defining a gap between the arms (Fig. 3)
- Forming identical coaxial cylindrical threaded bores (42A, 42B; C3 L21-28) through the distal ends of the first and second arms
- Providing a screw (40) having a head at one end and a threaded shank extending from the head to an opposite end with the threaded shank being sized to threadably engage the threaded bores through the distal ends of the first and second arms (Fig. 3)
- Leaving a portion of the shank opposite the head threaded (Fig. 3)
- Assembling the clamp by selectively threadably engaging the screw with either of the first and second threaded bores (screw 40 is capable of being screwed both threaded bores) such that the head abuts the arm opposite the threaded engagement and the clearance portion clears the threads of the threaded bore opposite the threaded engagement (Fig. 3)

While Nielsen does indeed disclose a first and second threaded through bore (bores in 42A, and 42B) having a predetermined length and appears to show a clearance portion (non-threaded portion of the shaft), Nielsen does not explicitly disclose forming a clearance portion as defined by Applicant (a portion that is capable of

clearing a threaded bore), each threaded bore having a length less than a select length and a clearance portion of the shank of the select length.

Hand teaches a clamp having comprising a screw having a head (9), a threaded portion (6) and a clearance portion (7), a threaded bore (4) less than a select length (length of 7) and a clearance portion (7) of the select length (Fig. 2) for the purpose of achieving the predictable result of forcing the arms of the clamp towards each other thus facilitating the clamping action (C2 L69-87).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the device of Nielson to have a clearance portion formed on the shank, each threaded bore having a length less than a select length and a clearance portion of the shank of the select length, as taught by Hand, for the purpose of achieving the predictable result of forcing the arms of the clamp towards each other thus facilitating the clamping action (C2 L69-87).

Re clm 16: Hand further discloses the clearance portion (7) being non-threaded (Fig. 2).

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen (USP-6,186,027) in view of in view of Hand et al. (USP-1,870,112) further in view of Duda (USP-2,287,343).

Re clm 9: While Nielson in view of Hand does indeed disclose a screw that is capable of threaded engagement with either the first and second threaded through bore, Nielson does not explicitly disclose removing the screw from threaded engagement with

either the first and second arms and engaging and tightening the screw in an opposite orientation such that the screw is threadably engaged with the other arm.

Duda teaches a clamping system having a screw (9) that can be removed from a threaded bore (8) and screwed in an opposite orientation (C2 L32-43) for the purpose of facilitating assembly and to achieve the predictable result of tightening the clamp.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have removed the screw of Nielson from threaded engagement with either the first and second arms and engaging and tightening the screw in an opposite orientation such that the screw is threadably engaged with the other arm, as taught by Duda, for the purpose of facilitating assembly and to achieve the predictable result of tightening the clamp.

5. Claims 1, 4, 5, 11-13, and 17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Gelbein (USP-5584210) in view of Nielsen (USP-6,186,027) further in view of Hand et al. (USP-1,870,112).

Re clm 1: Gelbein discloses a symmetric clamp structure comprising a(n):

- First arm (right side of 32) having a distal end (54) defining a first threaded through bore (56, C3 L26)
- Second arm (left side of 32) having a distal end (54) defining a second through bore (56)

- Screw (58) comprising a head and a shank, the head being at one end of the shank and the shank having a threaded portion (58) at a second end opposite the first end

Gelbein discloses all of the claimed subject matter as described above.

Gelbein does not disclose a second threaded through bore, wherein the first threaded through bore and the second threaded through bore are essentially coaxial and essentially the same inner diameter, and a screw having a clearance portion between the threaded portion and the head, the screw being configured for selective insertion in one of the first and second threaded through bores so that with a threaded engagement between the threaded portion of the shank and either of the first threaded through bore of the first arm or the second threaded through bore of the second arm and the head abutting the other of the first and second arms opposite the threaded engagement, the clearance portion resides within the other of the first and second threaded through bores.

Nielsen teaches a clamp (36, 42A, 42B) comprising a first threaded bore (42A, C3 L25-28) and a second threaded bore (42B), wherein the first threaded bore and the second threaded bore are essentially coaxial (C3 L22) and essentially the same inner diameter (Fig. 3), and a screw (40) having a clearance portion (non-threaded portion of the screw) between the threaded portion and the head (Fig. 3), the screw being configured for selective insertion in one of the first and second threaded through bores so that with a threaded engagement between the threaded portion of the shank and one of the first and second threaded bores and the head abutting one of the first and second

arms opposite the threaded engagement, the clearance portion resides within the other of the first and second threaded bores (Fig. 3), to achieve the predictable result of drawing the lugs together so as to compress the tubular member about the handlebar thereby locking the handlebar in place (C3 L21-25) and for positively and securely locking the clamp (C1 L65-66).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have employed in the device of Gelbein a second threaded through bore, wherein the first threaded through bore and the second threaded through bore are essentially coaxial and essentially the same inner diameter, and a screw having a clearance portion between the threaded portion and the head, the screw being configured for selective insertion in one of the first and second threaded through bores so that with a threaded engagement between the threaded portion of the shank and either of the first threaded through bore of the first arm or the second threaded through bore of the second arm and the head abutting the other of the first and second arms opposite the threaded engagement, the clearance portion resides within the other of the first and second threaded through bores, as taught by Nielsen, for the purpose of drawing the lugs together so as to compress the tubular member about the handlebar thereby locking the handlebar in place (C3 L21-25), and for positively and securely locking the clamp (C1 L65-66).

While it appears Nielsen discloses a clearance portion (non-threaded portion of the shaft), Nielsen does not explicitly disclose a clearance portion as defined by Applicant (a portion that is capable of clearing a threaded bore).

Hand teaches a clamping system (Fig. 2) comprising a screw having a head (9), a threaded portion (6) and a clearance portion (7) this is sized to be freely received in a bore without contacting the wall (C2 L70-75), in order to achieve the predictable result of allowing the clearance portion to be freely received in the bore without contacting the walls and to force the arms of the clamp towards each other thus facilitating the clamping action (C2 L69-87).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have substituted the screw in the device of Gelbein in view of Nielsen for the screw disclosed by Hand, since the simple substitution of one known element for another to obtain predictable result requires only routine skill in the art.

Re clm 4: Gelbein further discloses each of the first and second arms have a proximal end (26) attached to a bicycle component (40).

Re clm 5: Gelbein discloses the bicycle component (40) is a brake lever (Fig. 3).

Re clm 11: Gelbein discloses a bicycle brake lever comprising:

- A housing (30)
- A lever (40) pivotably attached to the housing
- A clamp (50) attached to the housing
- First (right side of 32) and second (left side of 32) arms configured to receive a bicycle handlebar (12) axially therebetween, each of the first and second arms having a distal end (54), the distal ends having a space therebetween (Figs. 1-3), the first arm further having a first threaded

through bore (56) at its distal end and the second arm further having a second through bore (56) at its distal end

- A screw (58) comprising a head and a shank, the head being at one end and the shank having a threaded portion at a second end opposite the first end (Fig. 3)

Gelbein does not disclose a second threaded through bore, the first and second threaded through bores being essentially coaxial and essentially the same inner diameter, a screw having a clearance portion between the threaded portion and the head, the screw being configured for selective insertion in one of the first and second threaded through bores so that with a threaded engagement between the threaded portion of the shank and either of the first threaded through bore of the first arm or the second threaded through bore of the second arm and the head abutting the other of the first or second arms opposite the threaded engagement, the clearance portion resides within the other of the first and second threaded through bores, such that there is no threaded engagement between the threaded portion of the shank and the other of the first and second threaded through bores.

Nielsen teaches clamp (36) having a first threaded through bore (42A, C3 L25-28), a second threaded through bore (42B), the first and second threaded through bores being essentially coaxial and essentially the same inner diameter (Fig. 3), a screw (40) having a clearance portion between the threaded portion and the head (Fig. 3), the screw being configured for selective insertion in one of the first and second threaded through bores (screw 40 is capable of being screwed into both threaded bores) so that

with a threaded engagement between the threaded portion of the shank and either of the first threaded through bore of the first arm (36, 42A) or the second threaded through bore of the second arm (36, 42B) and the head abutting the other of the first or second arms opposite the threaded engagement, the clearance portion resides within the other of the first and second threaded through bores (Fig. 3) for the purpose of drawing the lugs together so as to compress the tubular member about the handlebar thereby locking the handlebar in place (C3 L21-25), and for positively and securely locking the clamp (C1 L65-66).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have employed in the device of Gelbein a second threaded through bore, the first and second threaded through bores being essentially coaxial and essentially the same inner diameter, a screw having a clearance portion between the threaded portion and the head, the screw being configured for selective insertion in one of the first and second threaded through bores so that with a threaded engagement between the threaded portion of the shank and either of the first threaded through bore of the first arm or the second threaded through bore of the second arm and the head abutting the other of the first or second arms opposite the threaded engagement, the clearance portion resides within the other of the first and second threaded through bores, as taught by Nielsen, to achieve the predictable result of drawing the lugs together so as to compress the tubular member about the handlebar thereby locking the handlebar in place (C3 L21-25), and for positively and securely locking the clamp (C1 L65-66).

Gelbein in view of Nielsen disclose all of the claimed subject matter as described above.

While Nielsen appears to disclose a clearance portion (non-threaded portion of the screw) that resides within the other of the first and second threaded through bores, Nielsen does not explicitly a clearance portion as defined by Applicant (a portion that is capable of clearing a threaded bore) and that there is no threaded engagement between the threaded portion of the shank and the other of the first and second threaded through bores.

Hand teaches a clamping system (Fig. 2) comprising a screw having a head (9), a threaded portion (6) and a clearance portion (7), the clearance portion resides within the other through bore (5), such that there is no threaded engagement between the threaded portion of the shank and the through bore (5) in order to achieve the predictable result of allowing the clearance portion to be freely received in the bore without contacting the walls and to force the arms of the clamp towards each other thus facilitating the clamping action (C2 L69-87).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have substituted the screw in the device of Gelbein in view of Nielsen for the screw disclosed by Hand, since the simple substitution of one known element for another to obtain predictable result requires only routine skill in the art.

Re clms 12 and 13: While Gelbein in view of Nielson does indeed disclose a clearance portion (non threaded portion) having an outer diameter sized to clear the first

(42A) and second (42B) threaded bores, Nielson does not disclose the clearance portion having a length at least equal to the axial length of each threaded bore.

Hand teaches a clamping system (Fig. 2) comprising a screw having a head (9), a threaded portion (6) and a clearance portion (7), the clearance portion has an outer diameter sized to clear a through bore (5) and having a length at least equal to (as well as exceeds, Fig. 2) the axial length of a threaded through bore (4) for the purpose of allowing the clearance portion to be freely received in the bore without contacting the walls and to force the arms of the clamp towards each other thus facilitating the clamping action (C2 L69-87).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the device of Gelbein in view of Nielson such that the clearance portion has a length at least equal to (as well as exceeds) the axial length of each threaded bore, as taught by Hand, for the purpose of allowing the clearance portion to be freely received in the bore without contacting the walls and to force the arms of the clamp towards each other thus facilitating the clamping action (C2 L69-87).

Re clm 17: Hand further discloses the clearance portion (7) being non-threaded (Fig. 2).

Response to Arguments

6. Applicant's arguments with respect to claims 1-17, have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW A. JOHNSON whose telephone number is (571)272-7944. The examiner can normally be reached on Monday - Friday 9:00a.m. - 5:30p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MATTHEW A JOHNSON/
Examiner, Art Unit 3656

/Richard WL Ridley/
Supervisory Patent Examiner, Art Unit 3656

